

AMENDED IN ASSEMBLY SEPTEMBER 13, 2001

AMENDED IN ASSEMBLY JULY 5, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MARCH 19, 2001

SENATE BILL

No. 40

Introduced by Senator Alarcon
(Coauthor: Assembly Member Shelley)

December 5, 2000

An act to amend Sections 1222, ~~1262~~, 1275, 1280, and 1327 of, ~~and to add Sections 1262.1 and to add Section 1265.1 to, and to repeal and add Section 1253.8 of,~~ the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Alarcon. Unemployment insurance: benefits: compensation.

~~(1) Existing law provides that an individual is not eligible for and may not receive unemployment compensation benefits if the individual left work because of a trade dispute.~~

~~This bill would exempt from this ineligibility provision an individual who leaves his or her work because of a trade dispute that is the result of a reduction in wages and benefits that would otherwise be deemed good cause for the individual leaving his or her most recent work. This bill would also provide that unemployment compensation benefits may not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.~~

(1) *Under existing law, an unemployed individual is not disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is a student.*

This bill would eliminate this provision and instead provide that an unemployed individual is not disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

(2) Existing law specifies that a person is “unemployed” in any week during which he or she performs no services and with respect to which no wages are payable to him or her.

This bill would require that payments received from an employer, that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act, not be construed to be wages or compensation for personal services for purposes of determination of eligibility for unemployment compensation benefits.

(3) Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.

~~This bill would, as specified, revise the calculations for these base periods, and would set forth the base period for any new claim filed on and after January 1, 2002, if an individual has not been paid sufficient wages to establish a benefit year.~~

~~The bill would require the Department of Employment Development to request wage information with regard to these new claims, and would assess a penalty of \$250 on an employer who fails to provide this information within 10 days from the requested date.~~

(4) Under existing law, the weekly unemployment compensation benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount is 39% of those wages divided by 13, but may not exceed \$230.

This bill would, for new claims filed with an effective date after January 1, 2002, specify a weekly benefit for an individual whose highest wages in the quarter of his or her base period exceeded a specified amount ~~of 50%, of a certain percentage,~~ of those wages divided by 13, and would also increase, in accordance with a certain



schedule, the maximum weekly benefit to the greater of a specified dollar amount or an amount equal to a specified percentage of the state's average weekly wage for the prior fiscal year.

Because this provision would increase the amount of unemployment compensation paid, it would increase the amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

The bill would require the Employment Development Department to contract with an independent research organization to study the most effective and efficient means of establishing eligibility for employment insurance benefits.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1222 of the Unemployment Insurance
2 Code is amended to read:
3 1222. Within 30 days of service of any notice of assessment
4 or denial of claim for refund or credit under Sections 803, 821,
5 844, or 991, or of any notice under Sections 704.1, 1035, 1055,
6 1127.5, 1131, 1142, 1143, 1144, 1180, 1184, 1327, 1733, and
7 1735, any employing unit or other person given the notice, or any
8 employing unit affected by a granting or denial of a transfer of
9 reserve account, may file a petition for review or reassessment
10 with an administrative law judge. The administrative law judge
11 may for good cause grant an additional 30 days for the filing of a
12 petition. If a petition for reassessment is not filed within the 30-day
13 period, or within the additional period granted by the
14 administrative law judge, an assessment is final at the expiration
15 of the period. If a petition for review of a termination of elective
16 coverage under Section 704.1 is not filed within the 30-day period,
17 or within the additional period granted by the administrative law
18 judge, the termination is final at the expiration of the period. If the
19 director fails to serve notice of his or her action within 60 days after
20 a claim for refund or credit is filed, the person or employing unit
21 may consider the claim denied and file a petition with an
22 administrative law judge.
23 ~~SEC. 2. Section 1262 of the Unemployment Insurance Code~~
24 ~~is amended to read:~~

~~1262. An individual is not eligible for unemployment compensation benefits, and no benefits shall be payable to him or her, if he or she left his or her work because of a trade dispute, except that benefits may not be denied to that individual if the trade dispute is the result of a reduction in wages and benefits that would be deemed good cause under this article for an individual leaving his or her most recent work. An ineligible individual under this section shall remain ineligible for the period during which he or she continues out of work by reason of the fact that the trade dispute is still in active progress in the establishment in which he or she was employed.~~

~~SEC. 3. Section 1262.1 is added to the Unemployment Insurance Code, to read:~~

~~1262.1. Notwithstanding Section 1262, unemployment compensation benefits may not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.~~

~~SEC. 2. Section 1253.8 of the Unemployment Insurance Code is repealed.~~

~~1253.8. An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is a student. Except as provided in subdivision (b), if a student's restrictions upon his or her availability for work due to school attendance eliminate any substantial portion of the potential prospects for full-time suitable employment he or she can perform in the labor market, the student shall not be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253.~~

~~(b) If a student restricts his or her availability to part-time work due to school attendance, he or she may be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253 if it is determined that:~~

~~(1) The claimant has a history of at least two years of having been self-supporting from part-time work while attending school.~~

~~(2) The claim is based on such part-time employment.~~

~~(3) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued.~~

~~(4) The claimant imposes no other restrictions and is in a labor market where a reasonable demand exists for the part-time services he or she offers.~~

SEC. 3. Section 1253.8 is added to the Unemployment Insurance Code, to read:

1253.8. An unemployed individual shall not be disqualified for eligibility for unemployment compensation benefits solely on the basis that he or she is only available for part-time work. If an individual restricts his or her availability to part-time work, he or she may be considered to be able to work and available for work pursuant to subdivision (c) of Section 1253 if it is determined that all of following conditions exist:

(a) The claim is based on the part-time employment.

(b) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the wage credits were accrued.

(c) The claimant imposes no other restrictions and is in a labor market in which a reasonable demand exists for the part-time services he or she offers.

SEC. 4. Section 1265.1 is added to the Unemployment Insurance Code, to read:

1265.1. Notwithstanding any other provision of this division, payments to an individual by an employer who has failed to provide the advance notice of facility closure required by the federal Worker Adjustment Renotification and Training (WARN) Act (29 U.S.C. Sec. 1201 et seq.) shall not be construed to be wages or compensation for personal services under this division, and benefits payable under this division shall not be denied or reduced because of the receipt of payments related in any way to an employer's violation of the WARN Act.

SEC. 5. Section 1275 of the Unemployment Insurance Code is amended to read:

1275. ~~(a)~~ Unemployment compensation benefit award computations shall be based on wages paid in the base period. "Base period" means: for benefit years beginning in October, November, or December, the four calendar quarters ended in the next preceding month of June; for benefit years beginning in January, February, or March, the four calendar quarters ended in the next preceding month of September; for benefit years beginning in April, May, or June, the four calendar quarters ended

1 in the next preceding month of December; for benefit years
 2 beginning in July, August, or September, the four calendar
 3 quarters ended with the next preceding month of March. Wages
 4 used in the determination of benefits payable to an individual
 5 during any benefit year may not be used in determining that
 6 individual's benefits in any subsequent benefit year.

7 ~~(b) For any new claim filed with an effective date on or after~~
 8 ~~January 1, 2002, if an individual has not been paid sufficient wages~~
 9 ~~in the first four of the last five completed calendar quarters to~~
 10 ~~entitle the individual to establish a benefit year, then "base period"~~
 11 ~~means the last four completed calendar quarters before the first day~~
 12 ~~of the individual's benefit year as defined in Section 1276. Each~~
 13 ~~quarter of this base period shall consist of four consecutive~~
 14 ~~13-week periods. As provided in Section 1280, the quarter with the~~
 15 ~~highest wages shall be used to determine the individual's weekly~~
 16 ~~benefit amount.~~

17 SEC. 6. Section 1280 of the Unemployment Insurance Code
 18 is amended to read:

19 1280. (a) For any new claims filed with an effective date on
 20 or after January 1, 1992, and prior to January 1, 2002, an
 21 individual's weekly benefit amount is the amount appearing in
 22 column B in the following table opposite that wage bracket in
 23 column A that contains the amount of wages paid to the individual
 24 for employment by employers during the quarter of his or her base
 25 period in which his or her wages were the highest.

A Amount of wages in highest quarter	B Weekly benefit amount
\$900.00– 948.99	40
949.00– 974.99	41
975.00–1,000.99	42
1,001.00–1,026.99	43
1,027.00–1,052.99	44
1,053.00–1,078.99	45
1,079.00–1,117.99	46
1,118.00–1,143.99	47
1,144.00–1,169.99	48
1,170.00–1,195.99	49
1,196.00–1,221.99	50

1	1,222.00–1,247.99	51
2	1,248.00–1,286.99	52
3	1,287.00–1,312.99	53
4	1,313.00–1,338.99	54
5	1,339.00–1,364.99	55
6	1,365.00–1,403.99	56
7	1,404.00–1,429.99	57
8	1,430.00–1,455.99	58
9	1,456.00–1,494.99	59
10	1,495.00–1,520.99	60
11	1,521.00–1,546.99	61
12	1,547.00–1,585.99	62
13	1,586.00–1,611.99	63
14	1,612.00–1,637.99	64
15	1,638.00–1,676.99	65
16	1,677.00–1,702.99	66
17	1,703.00–1,741.99	67
18	1,742.00–1,767.99	68
19	1,768.00–1,806.99	69
20	1,807.00–1,832.99	70
21	1,833.00–1,871.99	71
22	1,872.00–1,897.99	72
23	1,898.00–1,936.99	73
24	1,937.00–1,975.99	74
25	1,976.00–2,001.99	75
26	2,002.00–2,040.99	76
27	2,041.00–2,066.99	77
28	2,067.00–2,105.99	78
29	2,106.00–2,144.99	79
30	2,145.00–2,170.99	80
31	2,171.00–2,209.99	81
32	2,210.00–2,248.99	82
33	2,249.00–2,287.99	83
34	2,288.00–2,326.99	84
35	2,327.00–2,352.99	85
36	2,353.00–2,391.99	86
37	2,392.00–2,430.99	87
38	2,431.00–2,469.99	88
39	2,470.00–2,508.99	89



1	2,509.00–2,547.99	90
2	2,548.00–2,586.99	91
3	2,587.00–2,625.99	92
4	2,626.00–2,664.99	93
5	2,665.00–2,703.99	94
6	2,704.00–2,742.99	95
7	2,743.00–2,781.99	96
8	2,782.00–2,820.99	97
9	2,821.00–2,859.99	98
10	2,860.00–2,898.99	99
11	2,899.00–2,937.99	100
12	2,938.00–2,989.99	101
13	2,990.00–3,028.99	102
14	3,029.00–3,067.99	103
15	3,068.00–3,106.99	104
16	3,107.00–3,158.99	105
17	3,159.00–3,197.99	106
18	3,198.00–3,236.99	107
19	3,237.00–3,288.99	108
20	3,289.00–3,327.99	109
21	3,328.00–3,379.99	110
22	3,380.00–3,418.99	111
23	3,419.00–3,470.99	112
24	3,471.00–3,509.99	113
25	3,510.00–3,561.99	114
26	3,562.00–3,600.99	115
27	3,601.00–3,652.99	116
28	3,653.00–3,704.99	117
29	3,705.00–3,743.99	118
30	3,744.00–3,795.99	119
31	3,796.00–3,847.99	120
32	3,848.00–3,899.99	121
33	3,900.00–3,938.99	122
34	3,939.00–3,990.99	123
35	3,991.00–4,042.99	124
36	4,043.00–4,079.99	125
37	4,080.00–4,116.99	126
38	4,117.00–4,153.99	127
39	4,154.00–4,190.99	128



1	4,191.00–4,227.99	129
2	4,228.00–4,264.99	130
3	4,265.00–4,301.99	131
4	4,302.00–4,338.99	132
5	4,339.00–4,375.99	133
6	4,376.00–4,412.99	134
7	4,413.00–4,449.99	135
8	4,450.00–4,486.99	136
9	4,487.00–4,523.99	137
10	4,524.00–4,560.99	138
11	4,561.00–4,597.99	139
12	4,598.00–4,634.99	140
13	4,635.00–4,671.99	141
14	4,672.00–4,708.99	142
15	4,709.00–4,745.99	143
16	4,746.00–4,782.99	144
17	4,783.00–4,819.99	145
18	4,820.00–4,856.99	146
19	4,857.00–4,893.99	147
20	4,894.00–4,930.99	148
21	4,931.00–4,966.99	149

22

23 If the amount of wages paid an individual for employment by
 24 employers exceeds four thousand nine hundred sixty-six dollars
 25 and ninety-nine cents (\$4,966.99) in the quarter of his or her base
 26 period in which these wages were highest, the individual's weekly
 27 benefit amount shall be 39 percent of these wages divided by 13,
 28 but in no case shall this amount exceed two hundred thirty dollars
 29 (\$230). If the benefit payable under this subdivision is not a
 30 multiple of one dollar (\$1), it shall be computed to the next higher
 31 multiple of one dollar (\$1).

32 (b) For new claims filed with an effective date beginning on or
 33 after January 1, 2002 *and prior to January 1, 2003*, an individual's
 34 weekly benefit amount is the amount appearing in column B in the
 35 following table opposite that wage bracket in column A that
 36 contains the amount of wages paid to the individual for
 37 employment by employers during the quarter of his or her base
 38 period in which his or her wages were the highest.

39



1	A	B
2	<i>Amount of wages in</i>	<i>Weekly benefit</i>
3	<i>highest quarter</i>	<i>amount</i>
4	\$900.00– 948.99	40
5	949.00– 974.99	41
6	975.00–1,000.99	42
7	1,001.00–1,026.99	43
8	1,027.00–1,052.99	44
9	1,053.00–1,078.99	45
10	1,079.00–1,117.99	46
11	1,118.00–1,143.99	47
12	1,144.00–1,169.99	48
13	1,170.00–1,195.99	49
14	1,196.00–1,221.99	50
15	1,222.00–1,247.99	51
16	1,248.00–1,286.99	52
17	1,287.00–1,312.99	53
18	1,313.00–1,338.99	54
19	1,339.00–1,364.99	55
20	1,365.00–1,403.99	56
21	1,404.00–1,429.99	57
22	1,430.00–1,455.99	58
23	1,456.00–1,494.99	59
24	1,495.00–1,520.99	60
25	1,521.00–1,546.99	61
26	1,547.00–1,585.99	62
27	1,586.00–1,611.99	63
28	1,612.00–1,637.99	64
29	1,638.00–1,676.99	65
30	1,677.00–1,702.99	66
31	1,703.00–1,741.99	67
32	1,742.00–1,767.99	68
33	1,768.00–1,806.99	69
34	1,807.00–1,832.99	70
35	1,833.00–1,871.99	71
36	1,872.00–1,897.99	72
37	1,898.00–1,936.99	73
38	1,937.00–1,975.99	74
39	1,976.00–2,001.99	75
40	2,002.00–2,040.99	76

1	2,041.00–2,066.99	77
2	2,067.00–2,105.99	78
3	2,106.00–2,144.99	79
4	2,145.00–2,170.99	80
5	2,171.00–2,209.99	81
6	2,210.00–2,248.99	82
7	2,249.00–2,287.99	83
8	2,288.00–2,326.99	84
9	2,327.00–2,352.99	85
10	2,353.00–2,391.99	86
11	2,392.00–2,430.99	87
12	2,431.00–2,469.99	88
13	2,470.00–2,508.99	89
14	2,509.00–2,547.99	90
15	2,548.00–2,586.99	91
16	2,587.00–2,625.99	92
17	2,626.00–2,664.99	93
18	2,665.00–2,703.99	94
19	2,704.00–2,742.99	95
20	2,743.00–2,781.99	96

21

22 *If the amount of wages paid an individual for employment by*
23 *employers exceeds two thousand seven hundred eighty-one dollars*
24 *and ninety-nine cents (\$2,781.99) in the quarter of his or her base*
25 *period in which these wages were highest, the individual's weekly*
26 *benefit amount shall be 45 percent of these wages divided by 13,*
27 *but in no case may this amount exceed three hundred thirty dollars*
28 *(\$330).*

29 *(c) For new claims filed with an effective date beginning on or*
30 *after January 1, 2003, an individual's weekly benefit amount is the*
31 *amount appearing in column B in the following table opposite the*
32 *wage bracket in column A that contains the wages paid to the*
33 *individual for employment by employers during the quarter of his*
34 *or her base period in which his or her wages were the highest.*

35

36	A	B
37	Amount of wages in	Weekly benefit
38	highest quarter	amount
39	\$900.00– 948.99	40
40	949.00– 974.99	41



1	975.00–1,000.99	42
2	1,001.00–1,026.99	43
3	1,027.00–1,052.99	44
4	1,053.00–1,078.99	45
5	1,079.00–1,117.99	46
6	1,118.00–1,143.99	47
7	1,144.00–1,169.99	48
8	1,170.00–1,195.99	49
9	1,196.00–1,221.99	50
10	1,222.00–1,247.99	51
11	1,248.00–1,286.99	52
12	1,287.00–1,312.99	53
13	1,313.00–1,338.99	54
14	1,339.00–1,364.99	55
15	1,365.00–1,403.99	56
16	1,404.00–1,429.99	57
17	1,430.00–1,455.99	58
18	1,456.00–1,494.99	59
19	1,495.00–1,520.99	60
20	1,521.00–1,546.99	61
21	1,547.00–1,585.99	62
22	1,586.00–1,611.99	63
23	1,612.00–1,637.99	64
24	1,638.00–1,676.99	65
25	1,677.00–1,702.99	66
26	1,703.00–1,741.99	67
27	1,742.00–1,767.99	68
28	1,768.00–1,806.99	69
29	1,807.00–1,832.99	70

30

31 If the amount of wages paid an individual for employment by
 32 employers exceeds one thousand eight hundred thirty-two dollars
 33 and ninety-nine cents (\$1,832.99) in the quarter of his or her base
 34 period in which these wages were highest, the individual's weekly
 35 benefit amount shall be 50 percent of these wages divided by 13,
 36 but in no case shall this amount exceed the applicable of the
 37 following:

38 (1) For new claims filed with an effective date beginning on or
 39 after January 1, ~~2002~~ 2003, and before January 1, 2003, ~~three~~
 40 ~~hundred dollars (\$300), or 45 percent of the state's average weekly~~

~~wage for the prior fiscal year, whichever is greater. 2004, three hundred seventy dollars (\$370).~~

(2) For new claims filed with an effective date beginning on or after January 1, ~~2003~~ 2004, and before January 1, ~~2004~~, ~~three hundred forty dollars (\$340) or 50 percent of the state's average weekly wage for the prior fiscal year, whichever is greater. 2005, four hundred ten dollars (\$410).~~

(3) For new claims filed with an effective date beginning on or after January 1, ~~2004~~, ~~three hundred eighty dollars (\$380) or 50 percent of the state's average weekly wage for the prior fiscal year, whichever is greater. after January 1, 2005, four hundred fifty dollars (\$450).~~

If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

SEC. 7. Section 1327 of the Unemployment Insurance Code is amended to read:

1327. ~~(a)~~—The department shall give a notice of the filing of a new or additional claim to the employing unit by which the claimant was last employed immediately preceding the filing of the claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known that may affect the claimant's eligibility for benefits, including, but not limited to, facts pertaining to eligibility under Section 1256. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts that may affect the eligibility of the claimant and facts could not reasonably have been known within the period, the employing unit shall, within 10 days of acquiring the knowledge, submit the facts to the department, and the 10-day period may also be extended for good cause.

~~(b) Upon the filing of a new claim for benefits, if an individual is entitled under subdivision (b) of Section 1275 to establish a claim using a base period of the last four completed calendar quarters before the first day of the individual's benefit year, the department shall request wage information covering the quarters, as defined in subdivision (b) of Section 1275. The wage~~

1 information shall be used by the department to promptly make a
2 computation on the claim as provided in Section 1329. If an
3 employer fails to provide wage information to the department
4 within 10 days from the requested date, the employer shall be
5 assessed a penalty of two hundred fifty dollars (\$250). The
6 provisions of this article, Article 9 (commencing with Section
7 1176) of Chapter 4, with respect to refunds, and Chapter 7
8 (commencing with Section 1701), with respect to collections,
9 apply to the assessments provided by this section. Penalties
10 collected under this section shall be deposited in the Contingent
11 Fund.

12 *SEC. 8. The Employment Development Department shall*
13 *contract with a nonprofit, nonpartisan independent research*
14 *organization with a proven record of conducting objective*
15 *research on social insurance issues in the State of California to*
16 *study the most effective and efficient means of capturing recent*
17 *employee wages for the purposes of establishing eligibility for*
18 *unemployment insurance benefits, including, but not limited to,*
19 *implementing an alternative base period. The study shall also*
20 *identify all available federal and state resources that may be*
21 *utilized to administer the unemployment insurance program. The*
22 *study shall be completed and submitted to the Legislature by*
23 *December 31, 2002. The costs of the study shall be paid for from*
24 *existing department funds.*

